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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,525	03/18/2005	Martin Wiener	11336894 (P03006US)	8290

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INDIANAPOLIS OFFICE: 27879  
BRINKS HOFER GILSON & LIONE  
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INDIANAPOLIS, IN 46204-2033

EXAMINER

BEAULIEU, YONEL

ART UNIT

PAPER NUMBER

3661

NOTIFICATION DATE

DELIVERY MODE

03/05/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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# Office Action Summary

**Application No.**

10/528,525

**Applicant(s)**

WIENER ET AL.

**Examiner**

/Yonel Beaulieu/

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-62 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE/IB)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- 7) ☐ Paper No(s)/Mail Date 3/18/05, 7/17/06, 11/20/06, 12/18/06



***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 13 – 18 and 43 -50 are rejected under 35 U.S.C. 101 because a program is merely a set of instructions. Absent a computer to execute the program, the claims are not functional descriptive material. (See MPEP, §2106.02).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1 – 4, 8, 13 – 15, 18 – 21, 25, 26, 31 – 33, 35 – 39, 43 – 46, 49 – 55, 59 – 62 are rejected under 35 U.S.C. 102(e) as being anticipated by Anderson (USP 6622087 B2).

Regarding claims 1, 2, 8, 13, 19, 25, 33, 43, 51, and 62, Anderson teaches a navigation system and method for a vehicle comprising creating a digital map database (stored in memory file 240) containing a road network map that is divided into a plurality of road segments (see figs. 1a and 1B; col. 3, lines 59 – 67; col. 4, lines 63 – 65); a route planning module (200/205) to calculate (calculated by item 200) a route to a trip destination using the road network map (col. 3, lines 28 – 40; col. 9, lines 21 – 23); a traffic event notification device (225/235) operable to receive a traffic event notification message indicating a traffic event has occurred along a respective road segment of the route and a diversion module to retrieve an alternative route that avoids the traffic event by locating at least one marked diversion contained in the digital map database that is associated with the respective road segment where the traffic event has occurred (col. 5, lines 26 – 58 at least).

Regarding claims 3, 4, 9, 14, 15, 18, 20, 21, 26, 30 – 32, 35 – 39, 44 – 46, 49, 50, 52 – 55, 60, and 61, Anderson further teaches guiding the vehicle along the route and the alternate route where the respective road segments are located between intersections – the alternate route being based on shortest travel time factor (col. 4,

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lines 1 – 34; col. 5, line 26 – 47; col. 5, line 59 – col. 6, line and col. 8, lines 4 – 47 at least).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 – 7, 10 – 12, 16, 17, 22 – 24, 27 – 29, 34, 40 – 42, 47 – 48, and 56 - 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson ('087).

As discussed above, Anderson teaches all of the limitations except for the explicit recitation of calculating the diversion using small functional road class to avoid a traffic event beginning at a first predetermined distance before the traffic event and end at a second predetermined distance after the traffic event. However, it would have been obvious to one of ordinary skill in the art at the time of the invention Anderson teaches an equivalent system achieving guiding a vehicle to a destination and that using small functional road class to avoid a traffic event beginning at a first predetermined distance before the traffic event and end at a second predetermined distance after the traffic event is obvious in the navigational art by avoiding traffic events in a safe, short and efficient manner.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Yonel Beaulieu/ whose telephone number is (571) 272-6955. The examiner can normally be reached on Mon., Wed. & Thur. between 0900 and 1600.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas BLACK can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Yonel Beaulieu/  
Yonel Beaulieu  
Primary Examiner  
Art Unit 3661





**Application Number****Application/Control No.**

10/528,525

**Examiner**

/Yonel Beaulieu/

**Applicant(s)/Patent under  
Reexamination**

WIENER ET AL.

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